Judgment of the Court of First Instance of 23 February 2006 — Karatzoglou v EAR

(Case T-471/04) (¹)

(Member of the temporary staff — Termination of contract — Article 47(2)(a) of the Conditions of Employment of Other Servants of the European Communities — Observance of the provisions of the contract — Legitimate expectations)

(2006/C 96/24)

Language of the case: English

Parties

Applicant: Georgios Karatzoglou (Ioannina, Greece), represented by S. Pappas, lawyer)

Defendant: European Agency for Reconstruction (EAR) (represented by J.-N. Louis, S. Orlandi, X. Martin and C. Manolopoulos, lawyers)

Application

for annulment of the decision of the EAR of 26 February 2004 to terminate the applicant's contract of employment

Operative part of the judgment

The Court:

1. *Annuls the decision of the European Agency for Reconstruction (EAR) of 26 February 2004 terminating the applicant's contract of employment;*

2. *Orders the EAR to pay the costs.*

(¹) OJ C 57, 5.3.2005.

Order of the Court of First Instance of 16 February 2006 — Centro Europa 7 v Commission

(Case T-338/04) (¹)

(Article 86(3) EC — Rejection of complaint — Action for annulment — Plea of inadmissibility)

(2006/C 96/25)

Language of the case: Italian

Parties:

Applicant: Centro Europa 7 Srl (Rome, Italy) (represented by: V. Ripa di Meana and R. Mastroianni, lawyers)

Defendant: Commission of the European Communities (represented by: P. Oliver and F. Amato, Agents)

Intervener in support of the defendant: Mediaset SpA (Milan, Italy) (represented by: M. Bay, lawyer)

Application for

Annulment of the Commission's letter of 4 June 2004 [D (2004) 471] in so far as it rejects the applicant's complaint that the Italian Republic had infringed the combined provisions of Articles 86 EC and 82 EC.

Operative part of the Order

1. *The action is dismissed as inadmissible.*

2. *In addition to bearing its own costs, the applicant is ordered to pay the costs incurred by the Commission and the intervener.*

(¹) OJ C 262 of 23.10.2004.

Order of the President of the Court of First Instance of 17 February 2006 — Nijs v Court of Auditors

(Case T-171/05 RII)

(Proceedings for interim relief — Officials — New action — Article 109 of the Rules of Procedure — New facts)

(2006/C 96/26)

Language of the case: French

Parties:

Applicant: Bart Nijs (Bereldange, Luxembourg) (represented by: F. Rollinger, lawyer)

Defendant: Court of Auditors of the European Communities (represented by: T. Kennedy, J.-M. Stenier and G. Corstens, Agents)

Application for

Suspension of operation of the Court of Auditors' decision of 2 December 2004 to promote an official other than the applicant to the post of principal translator at grade LA5 in the Dutch Section of the Translation Service of the General Secretariat of the Court of Auditors

Operative part of the order

1. *The application for interim measures is dismissed.*

2. *The costs are reserved.*

Action brought on 14 December 2005 — Daishowa Seiki v OHIM

(Case T-438/05)

(2006/C 96/27)

Language in which the application was lodged: German

Parties

Applicant: Daishowa Seiki Co. Ltd (Osaka, Japan) (represented by: T. Krüger, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Other party to the proceedings before the Board of Appeal of OHIM: Tengelmann Warenhandelsgesellschaft KG (Mülheim, Germany)

Form of order sought

— Annul Decision R928/2004-1 of the First Board of Appeal for the Office for Harmonisation in the Internal Market (Trade Marks and Designs), made on 7 September 2005;

— order the Office for Harmonisation in the Internal Market (Trade Marks and Designs) to pay the costs of this action and of the objection proceedings R928/2004-1.

Pleas in law and main arguments

Applicant for a Community trade mark: Daishowa Seiki Co. Ltd

Community trade mark concerned: figurative mark 'BIG PLUS' for goods in Class 7 (Metal machine tools, parts and tool holders) Application no. 1 073 964

Proprietor of the mark or sign cited in the opposition proceedings: Tengelmann Warenhandelsgesellschaft KG

Mark or sign cited in opposition: The national figurative mark 'Plus' for goods, inter alia in Classes 6 and 8

Decision of the Opposition Division: Rejection of the opposition

Decision of the Board of Appeal: Setting aside of the decision of the Opposition Division

Pleas in law: Infringement of Article 8(1)(b) of EC Regulation No. 40/94, as there is no risk of confusion between the opposing trade marks, (i) due to the lack of similarity of the goods and trade marks, and (ii) because the distinctive character of the opposing trademark is limited to the graphical design.

Action brought on 25 January 2006 — Trioplast Wittenheim v Commission

(Case T-26/06)

(2006/C 96/28)

Language of the case: Swedish

Parties

Applicant: Trioplast Wittenheim AS (Wittenheim, France) (represented by: Tommy Pettersson, lawyer)

Defendant: Commission of the European Communities

Form of order sought

The applicant claims that the Court should:

— partially, annul Article 1(g) of the decision regarding the period during which the applicant is held responsible for the violation;

— partially, annul Article 2(f) of the decision regarding the fine imposed on the applicant; in the alternative reduce the fine;

— order the Commission to pay the applicant's costs.

Pleas in law and main arguments

The applicant appeals against the Commission's decision in Case COMP/F/38.354 — Industrial sacks (C(2005) 4634 final; hereinafter 'the contested decision') by which a fine of EUR 17.85 million is imposed on the applicant for participating in anticompetitive conduct in the market for industrial sacks in Belgium, Germany, Spain, France, Luxembourg and the Netherlands contrary to Article 81 EC.

The applicant does not dispute its participation in anticompetitive conduct up to 23 March 1999, but ceased its infringement in March 1999 when the applicant's new owner, Trioplast Industrier, became aware of the anticompetitive conduct. According to the applicant, the Commission has thus wrongly assessed the duration of the company's infringement.